

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA, §
§
VS. § CRIMINAL ACTION NO. C-07-628
§
MARK ESCOBEDO; aka BEATLE; aka §
BEDO, *et al*, §
§
Defendants. §

ORDER

On this day came on to be considered Douglas Tinker's "Motion to Withdraw Douglas Tinker's Name as Attorney of Record for John Michael Mungia" (hereinafter, "Motion to Withdraw") (D.E 73). For the reasons set forth below and for the reasons set forth during the December 21, 2007 hearing before this Court, Mr. Tinker's Motion to Withdraw is hereby GRANTED. The Court also hereby VACATES the December 18, 2007 Order of Magistrate Judge Brian L. Owsley addressing Mr. Tinker's Motion to Withdraw (D.E. 82), and substitutes this Order in its place.

On December 14, 2007, the office of Magistrate Judge Owsley contacted Mr. Tinker's office to inquire whether Mr. Tinker would be able to represent Defendant Mungia in the above-styled action. Mr. Tinker's secretary testified at the hearing before this Court that she checked Mr. Tinker's schedule and represented that his schedule would allow for him to represent Mr. Mungia. However, Mr. Tinker's secretary testified that she did *not* accept the appointment on behalf of Mr. Tinker, as she did not have the authority to accept appointments on Mr. Tinker's behalf. In fact, Mr. Tinker had been contacted earlier that day by the mother of Mr. Mungia's co-defendant in this case, Michael Pyles. Mr. Pyles' mother sought to retain Mr. Tinker as Mr. Pyles' attorney, and Mr. Tinker had already agreed to represent Mr. Pyles.

Upon learning that Magistrate Judge Owsley's office had contacted his secretary regarding representation of Mr. Mungia, Mr. Tinker asked his legal assistant to contact Judge Owsley's office to inform them that he had a conflict and could not represent Mr. Mungia in this case. *Mr. Tinker never formally accepted representation of Mr. Mungia*, and he never had any contact whatsoever with Mr. Mungia. At the hearing before this Court, Mr. Mungia also testified that he never spoke with or otherwise had any contact with Mr. Tinker, and that he never understood Mr. Tinker to represent him in this matter.

At the hearing before this Court, Mr. Pyles, Mr. Mungia and Mr. Tinker all agreed that Mr. Tinker never agreed to represent or actually represented Mr. Mungia in this case. Assistant United States Attorney Gregory Surovic, appearing by telephone on behalf of the United States, also represented that he did not have any opposition to Mr. Tinker representing Mr. Pyles in this case, and he did not see any possible conflict with respect to Mr. Tinker. Accordingly, Mr. Tinker does not have a conflict with representing Mr. Pyles in the above-styled criminal action. Further, Mr. Pyles represented at the hearing that it was his choice to have Mr. Tinker represent him in this case. In light of the above, Mr. Tinker is hereby SUBSTITUTED in as attorney for Mr. Pyles in the above-styled action, in place of attorney Richard Rogers, and Mr. Tinker's Motion to Withdraw (D.E. 73) is hereby GRANTED. Attorney Alfred Montelongo will continue as attorney for Mr. Mungia in this case.

SIGNED and ORDERED this 21st day of December, 2007.



Janis Graham Jack
United States District Judge